

Social Security Administration

§ 404.201

mental impairments but who is not legally incompetent. We determine that Mr. Y needs assistance in managing his benefits, but we have not found a representative payee. Although we believe that Mr. Y may not use the money wisely, there is no indication that receiving funds directly would cause him substantial harm (*i.e.*, serious physical or mental injury). We must pay current benefits directly to Mr. Y while we locate a suitable representative payee.

(c) *How we pay delayed or suspended benefits.* Payment of benefits, which were delayed or suspended pending appointment of a representative payee, can be made to you or your representative payee as a single sum or in installments when we determine that installments are in your best interest.

[69 FR 60232, Oct. 7, 2004]

§ 404.2015 Information considered in determining whether to make representative payments.

In determining whether to make representative payment we consider the following information:

(a) *Court determinations.* If we learn that a beneficiary has been found to be legally incompetent, a certified copy of the court's determination will be the basis of our determination to make representative payment.

(b) *Medical evidence.* When available, we will use medical evidence to determine if a beneficiary is capable of managing or directing the management of benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the beneficiary and his or her knowledge of the beneficiary's present condition will be used in our determination, if it includes information concerning the nature of the beneficiary's illness, the beneficiary's chances for recovery and the opinion of the physician or other medical professional as to whether the beneficiary is able to manage or direct the management of benefit payments.

(c) *Other evidence.* We will also consider any statements of relatives, friends and other people in a position to know and observe the beneficiary, which contain information helpful to us in deciding whether the beneficiary is able to manage or direct the management of benefit payments.

§ 404.2020 Information considered in selecting a representative payee.

In selecting a payee we try to select the person, agency, organization or institution that will best serve the interest of the beneficiary. In making our selection we consider—

(a) The relationship of the person to the beneficiary;

(b) The amount of interest that the person shows in the beneficiary;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(d) Whether the potential payee has custody of the beneficiary; and

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary.

§ 404.2021 What is our order of preference in selecting a representative payee for you?

As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. Our primary concern is to select the payee who will best serve the beneficiary's interest. The preferences are:

(a) For beneficiaries 18 years old or older (except those described in paragraph (b) of this section), our preference is—

(1) A legal guardian, spouse (or other relative) who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary;

(4) A private institution operated for profit and licensed under State law, which has custody of the beneficiary; and

(5) Persons other than above who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee for a beneficiary; *e.g.*, members of community groups or organizations who volunteer to serve as payee for a beneficiary.